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Attorneys for Defendant, U.S. Department of Justice

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

TRUTHOUT,

Plaintiff,

v.

DEPARTMENT OF JUSTICE,

Defendant.

2:12-cv-2601-LKK-CKD

**STIPULATION AND ORDER EXTENDING
TIME TO FILE MOTION FOR SUMMARY
JUDGMENT**

The parties, through their undersigned counsel, hereby recite and stipulate, subject to the approval of the Court as provided for hereon, as follows:

RECITALS

1. In the status conference held April 1, 2013, the Court gave the Department of Justice less time than it had requested, requiring its motion for summary judgment to be filed by July 15, 2013. The Court, however, orally invited a request for extension, if needed, showing why the July 15 deadline could not be met.

2. Defendant reports that it was on schedule to meet its July 15 deadline, except that its search for responsive records unexpectedly found classified documents. This request results from that occurrence, and responds to the Court's invitation at the status conference.

3. The FBI reports that it needs an additional five weeks to prepare Vaughn materials (that

is, declarations and associated materials to carry burdens explained in *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973)) for the Assistant United States Attorney to use for factual support for the summary judgment papers he will write. The additional time in the FBI results from the unexpected documents, classified at the Secret and Top Secret levels. This added time is taken up by (1) classification review, to determine whether the documents remain properly classified; (2) logistical delays necessitated by restrictions on the ability to communicate Top Secret information, all of which could be handled only by particular employees and electronic systems, and some of which had to be securely couriered between west and east coasts; (3) the need to write additional Vaughn material addressing FOIA exemptions associated with classified records; and (4) the previously-unanticipated need to prepare in-camera Vaughn papers additional to the already-anticipated public Vaughn papers.

3. The AUSA reports that he will need three weeks more than the time previously scheduled between his receipt of the Vaughn materials from the FBI and his filing of the summary judgment motion. The additional time need results from (1) the need for one to two additional weeks to brief, obtain internal review of, and finalize for filing the following papers additional to the previously-anticipated public summary judgment papers: (a) briefing on FOIA exemptions protecting classified documents; (b) papers requesting orders sealing materials for in-camera inspection; and (c) in-camera briefing; and (2) his already-existing motion-writing obligations in July and August, which occupy one to two weeks that he otherwise would have had for the writing tasks in this action.

4. The total extension requested is eight weeks. No previous extension of this time has been requested or granted.

STIPULATIONS

1. The summary judgment motion filing date of July 15, 2013, set by Order filed April 3, 2013, at 2, last full paragraph, is EXTENDED until September 9, 2013.

2. The other dates set in the same paragraph are modified as follows: Plaintiff shall respond to the motion by October 7, 2013, and defendant shall reply by October 21, 2013.

1 Dated: June 28, 2013

NATIONAL SECURITY COUNSELORS

2 By:

/s/ Kelly McClanahan (as authorized 6/28/13)

3 KELLY McCLANAHAN
4 Executive Director

5 Dated: June 28, 2013

BENJAMIN B. WAGNER
6 United States Attorney

7 By:

/s/ YHimel

8 YOSHINORI H. T. HIMEL
9 Assistant United States Attorney

10 **ORDER**

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12 It is APPROVED and SO ORDERED.

13
14 Dated: July 2, 2013.

15 
16 LAWRENCE K. KARLTON

17 SENIOR JUDGE
18 UNITED STATES DISTRICT COURT